

ORDINANCE NUMBER _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DECATUR, BY AMENDING ARTICLE III, ENTITLED, OIL AND GAS WELLS,” REGULATING THE DRILLING AND PRODUCTION OF GAS & OIL WELLS WITHIN THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND NAMING AN EFFECTIVE DATE.

WHEREAS, there has been increased interest in gas & oil drilling and production within and around the City of Decatur;

WHEREAS, the City of Decatur does not currently require specific zoning for gas & oil drilling and production, and does not have up to date comprehensive regulations concerning drilling and production of gas & oil within the city limits;

WHEREAS, the City Council finds that the drilling and production of gas & oil within the city limits without up to date comprehensive regulations could affect the health, safety and welfare of its citizens;

WHEREAS, the City Council deems it necessary to enact regulations that are more comprehensive and up to date for the drilling and production of gas & oil within the city limits;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DECATUR, TEXAS:

SECTION 1.

The Code of Ordinances of Decatur, Texas is hereby amended by replacing Article III of Chapter 7, “OIL AND GAS WELLS”, comprised of sections 7-56 through 7-75 which reads as follows:

DIVISION I. PURPOSE

SEC. 7-56. PURPOSE.

The exploration, development, and production of gas & oil in the City is an activity which necessitates reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to peaceably enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this Ordinance to establish reasonable and uniform limitations, safeguards and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of gas & oil and other substances produced in association with gas & oil within the City to protect the health, safety and general welfare of the public; minimize the potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources.

DIVISION II. DEFINITIONS**SEC. 7-57. DEFINITIONS.**

All technical industry words or phrases related to the drilling and production of gas & oil wells not specifically defined in this Ordinance shall have the meanings customarily attributable thereto by prudent and reasonable gas & oil industry Operators. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. *Abandonment* means “abandonment” as defined by the Texas Railroad Commission and includes the plugging of the well and the restoration of any well site as required by this Ordinance.
- B. *Blowout preventer* means a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe, or other tubular goods which completely close the top of the casing and are designed for preventing blowouts.
- C. *Building* means any structure used or intended for supporting or sheltering any use or occupancy. The term “building” shall be construed as if followed by the words “or portions thereof.”
- D. *Cathodic protection* means an electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection current is supplied by sacrificial anode materials or by an impressed current system.
- E. *City* means the City of Decatur.
- F. *City Code* means the Code of the City of Decatur.
- G. *City Attorney* means the City Attorney of the City of Decatur.
- H. *Commission* means the Texas Railroad Commission.
- I. *Completion of drilling, re-drilling and re-working* means the date the work is completed for the drilling, re-drilling or re-working and the crew is released by completing their work or contract or by their employer.
- J. *Derrick* means any portable framework, tower, mast and/or structure, which is required or used in connection with drilling or re-working a well for the production of gas & oil.

- K. *Drilling* means digging or boring a new well for the purpose of exploring for, developing or producing gas & oil or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.
- L. *Drilling equipment* means the derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.
- M. *Drill site* means the premises used during the drilling or re-working of a well or wells located there and subsequent life of a well or wells or any associated operation.
- N. *Exploration* means geologic or geophysical activities, including seismic surveys, related to the search for gas & oil or other subsurface hydrocarbons.
- O. *Fire Department* means the Fire Department of the City of Decatur.
- P. *Gas* means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.
- Q. *Gas well* means any well drilled, to be drilled, or used for the intended or actual production of natural gas.
- R. *High Impact Permit* means a permit required if the proposed well is to be located within six hundred (600) feet of a residence, religious institution, public building, hospital building, school or public park.
- S. *Inspector* means the Gas or Oil Inspector designated by the City Manager of Decatur.
- T. *Lease* shall mean any tract of land subject to an oil, gas, and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as one (1) lease, and any tract of land in which the minerals are owned by an operator or someone holding under it or him, but which, due to the fee royalty ownership is developed and operated as a separate tract.
- U. *Oil* means liquid petroleum as it comes out of the ground as distinguished from refined oils manufactured out of it. Also known as crude petroleum oil.
- V. *Oil Well means* any well which produces one barrel or more crude petroleum oil to each 100,000 cubic feet of natural gas.
- W. *Operation site* means the area used for development and production and all operational activities associated with gas after drilling activities are complete.
- X. *Operator* means, for each well, the person listed on the Railroad Commission Form W-1 or Form P-4 for a gas or oil well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without

limitation, a unit Operator. If the Operator, as herein defined, is not the lessee under a gas & oil lease of any premises affected by the provisions of this Ordinance, then such lessee shall also be deemed to be an Operator. In the event that there is no gas & oil lease relating to any premises affected by this Ordinance, the owner of the fee mineral estate in the premises shall be deemed an Operator.

- Y. *Person* means both the singular and the plural and means a natural person, a corporation, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind.
- Z. *Public building* means all buildings used or designed to and intended to be used for the purpose of assembly of persons for such purposes as education, deliberation, entertainment, amusement, or health care. Public buildings include, but shall not be limited to, theaters, assembly halls, auditoriums, armories, mortuary chapels, dance halls, exhibition halls, museums, gymnasiums, bowling lanes, libraries, skating rinks, courtrooms, schools, restaurants, hospitals.
- AA. *Public park* means any land area dedicated to and/or maintained by the City for traditional park-like recreational purposes, but shall not include privately owned amusement parks or privately owned or privately managed golf courses.
- BB. *Re-drill* means re-completion of an existing well by deepening or sidetrack operations extending more than one hundred fifty (150) feet from the existing well bore.
- CC. *Religious Institution* means any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.
- DD. *Residence* means a house, duplex, apartment, townhouse, condominium, mobile home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a Gas & Oil Well Permit is filed with the Planning Department .
- EE. *Re-working* means re-completion or re-entry of an existing well by deepening or sidetrack operations which do not extend more than one hundred fifty (150) feet from the existing well bore.
- FF. *Right-of-way* means public rights-of-way including streets, easements and other property within the City and which is dedicated to the use and benefit of the public.
- GG. *Rural Gas & Oil Permit* means that permit required if the proposed well is located on a open space of not less than twenty-five acres and no production equipment shall be located within one thousand feet (1,000) of a residence, religious institution, public building, hospital building, school or public park.
- HH. *School* means any public and private, primary and secondary educational facilities providing education up through and including the twelfth grade level and any licensed day care centers, meaning a facility licensed by the State of Texas or by the City of

- Decatur that provides care, training, education, custody, treatment or supervision for more than six children under 14 years of age, and for less than 24 hours per day.
- II. *Street* means any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way.
- JJ. *Tank* means a container, covered or uncovered, used in conjunction with the drilling or production of Gas & Oil or other hydrocarbons for holding or storing fluids.
- KK. *Technical advisor* means such person(s) familiar with and educated in the Gas & Oil industry or the law as it relates to gas matters who may be retained from time to time by the City.
- LL. *Urban Gas & Oil Well Permit* means a Gas & Oil Well Permit other than a High Impact Gas & Oil Well Permit or Rural Gas & Oil Well Permit.
- MM. *Well* means a hole or holes, bore or bores, to any horizon, formation, or strata for the purpose of producing gas & oil, liquid hydrocarbon, brine water or sulfur water, or for use as an injection well for secondary recovery, disposal or production of gas & oil, or other hydrocarbons from the earth.

DIVISION III. GAS & OIL INSPECTOR**SEC. 7-58. GAS & OIL INSPECTOR.**

- A.** The City Manager shall direct the Planning Director to designate a Gas & Oil Inspector who shall enforce the provisions of this Ordinance. The Inspector shall demonstrate a proven background in the drilling, production, and operation of gas & oil wells. The Inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this Ordinance and its particular provisions.
- B.** The Inspector shall have the authority to enter and inspect any premises covered by the provisions of this Ordinance to determine compliance with the provisions of this Ordinance and all applicable laws, rules, regulations, standards or directives of the State. The Inspector shall conduct periodic inspections at least once a year of all permitted wells in the City to determine that the wells are operating in accordance within proper safety parameters as set out in this Ordinance.
- C.** The Inspector and the Planning Department shall have the authority to request and receive any records, including any records sent to the Commission, logs, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable Gas & Oil Well Permit
- D.** Failure of any person to comply with any such order or directive issued by the appointed Inspector or permit access to sites or provide requested material shall constitute a violation of this Ordinance.

DIVISION IV. AGENT**SEC. 7-59. OPERATOR'S AGENT.**

Every Operator of any well shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail. Every Operator so designating such agent shall within ten (10) days notify the City Secretary in writing of any change in such agent or such mailing address unless operations within the City are discontinued.

DIVISION V. GAS & OIL WELL PERMITS**SEC. 7-60. GAS & OIL WELL PERMIT REQUIRED**

- A.** A person wanting to engage in and operate in gas & oil production activities shall apply for and obtain a Gas & Oil Well Permit under this Ordinance and shall indicate what type of Gas & Oil Well Permit is requested. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, re-drilling, fracturing or operation of any such well or to conduct any activity related to the production of gas & oil without first obtaining a Gas & Oil Well Permit issued by the City in accordance with this Ordinance. Such activities include, but are not limited to re-drilling, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing. A permit shall not be required for seismic surveys.
- B.** Operator must apply for and obtain a Gas & Oil Well Permit prior to drilling, re-drilling, deepening, re-entering, activating or converting each well including any previously abandoned well. The issued Gas & Oil Well Permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, repair, re-working, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well.
- C.** Any person who intends to re-work a permitted well to fracture stimulate the well after initial completion or to conduct seismic surveys or other exploration activities shall give written notice by certified mail to the Planning Department no less than ten (10) days before the activities begin. The notice must identify where the activities will be conducted and must describe the activities in detail, including whether explosive charges will be used, the duration of the activities and the time the activities will be conducted. The notice must also provide the address and 24-hour phone number of the person conducting the activities. If requested by the Inspector, the person conducting the activities will post a sign on the property giving the public notice of the activities, including the name, address and 24-hour phone number of the person conducting the activities. If the Inspector determines that an inspection is necessary, the Operator will pay the City for the inspection.

The following requirements shall apply to all fracture stimulation operations performed on a well within 300 feet of an occupied residence:

- 1) at least 48 hours before operations are commenced, the operator shall post a sign at the entrance of the well site advising the public of the date the operations will commence;
- 2) "flowback" operations to recover fluids used during fracture stimulation shall be performed during daylight hours only unless the Inspector approves such operations during non-daylight hours;
- 3) a watchman shall be required at all times during such operations; and
- 4) at no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.

- D.** A Gas & Oil Well Permit shall automatically terminate, unless extended, if drilling is not commenced within one hundred eighty (180) days from the date of the issuance of the Gas & Oil Well Permit. A Gas & Oil Well Permit may be extended by the Planning Department for an additional one hundred eighty (180) days upon request by the Operator and proof that the classification of the requested gas well permit for such location has not changed.
- E.** The Gas & Oil Well Permits required by this Ordinance are in addition to and are not in lieu of any permit which may be required by any other provision of this Code or by any other governmental agency.
- F.** No additional Gas & Oil Well Permit or filing fees shall be required for:
- 1) any wells, existing, previously permitted or approved by the City, within the corporate limits of the City on the effective date of this Ordinance; or
 - 2) any wells which drilling has commenced on the effective date of this Ordinance; or
 - 3) any wells in existence or any wells on which drilling has commenced on land prior to annexation into the City after the effective date of this Ordinance.

A person shall have forty-five (45) days after the enactment of this Ordinance or annexation into the City to designate a gas & oil operation as a preexisting operation by filing a site plan drawn to scale that shows the location of the well with respect to survey lines and the associated production facilities, if any, with the Planning Department .

- G.** Notwithstanding any other provision of this article, all operations for drilling or mining for the production of oil, gas or other hydrocarbons or gold or other precious metals shall be expressly prohibited upon public parks within the city limits unless approved by the City Council. The City Council shall review the insurance and security requirements on an individual basis and may impose additional restrictions upon issuance of a gas & oil well permit. This provision shall not operate to prohibit the drilling of any water well that the city council shall deem reasonable or appropriate.
- H.** No Gas & Oil Well Permit shall be issued for any well to be drilled within any floodway.
- I.** No Gas & Oil Well Permit shall be issued for any well to be drilled on City owned property without the prior consent of the City Council. The City Council shall review the insurance and security requirements on an individual basis prior to issuing the permit.
- J.** By acceptance of any Gas & Oil Well Permit issued pursuant to this Ordinance, the Operator expressly stipulates and agrees to be bound by and comply with the provisions of this Ordinance. The terms of this Ordinance shall be deemed to be incorporated in any Gas & Oil Well Permit issued pursuant to this Ordinance with the same force and effect as if this Ordinance was set forth verbatim in such Gas & Oil Well Permit.

SEC. 7-61. GAS & OIL WELL PERMIT APPLICATION AND FILING FEES.

- A.** Every application for a Gas & Oil Well Permit issued pursuant to this Ordinance shall be in writing signed by the Operator, or some person duly authorized to sign on his behalf, and filed with the Planning Department.
- B.** Every application shall be accompanied by a permit fee of Three Thousand Two Hundred Fifty (\$3,250.00) dollars.
- C.** The application shall include the following information:
 - 1) The date of the application, type of Gas & Oil Well Permit requested, intended drilling start date and proposed duration of the operation.
 - 2) An accurate legal description of the lease property to be used for the gas & oil operation, the parcel and the production unit and name of the geologic formation as used by the Commission. Property recorded by plat should reference subdivision, block and lot numbers and include authorization for the proposed drilling.
 - 3) Map showing proposed transportation route and road for equipment, chemicals or waste products used or produced by the gas & oil operation.
 - 4) Proposed well name.
 - 5) Surface owner names(s) and address (es) of the lease property.
 - 6) Mineral Lessee name and address.
 - 7) Operator/Applicant name and address and if the Operator is a corporation, the state of incorporation, and if the Operator is a partnership, the names and addresses of the general partners.
 - 8) Name and address of individual designated to receive notice.
 - 9) Name of representative with supervisory authority over all gas & oil operation site activities and a 24-hour phone number.
 - 10) Location and description of all improvements and structures within six hundred feet (600) feet of the wellhead .
 - 11) Owner and address of each parcel of property within six hundred (600) feet of the proposed wellhead.
 - 12) A site plan of the proposed operation site showing the location of all property lines and respective owners within proposed operation site, of all improvements and equipment, including the location and depth of the proposed well(s) and other facilities, including, but not limited to, tanks, pipelines, compressors, separators and storage sheds.
 - 13) The name, address and 24-hour phone number of the person to be notified in case of an emergency.
 - 14) The exact and correct acreage and number of wells, if applicable, included in the Gas & Oil Well Permit application.
 - 15) Copies of all reports required by the Commission.
 - 16) A signed Road Maintenance Agreement supplied by the City that provides that the Operator shall repair, at his own expense, any damage to roads, streets, or highways caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, and operation of Gas & Oil wells.
 - 17) A description of public utilities required during drilling and operation.

- 18) A description of the water source to be used during drilling.
- 19) A copy of the approved Commission permit to drill together with attachments and survey plats which are applicable to the drill and operation sites.
- 20) A copy of the Stormwater Pollution Prevention Plan if required by the Environmental Protection Agency. A copy of the notice of intent shall be submitted to the City of Decatur City Engineer and Planning Director three (3) days prior to the commencement of any onsite activity.
- 21) A copy of the determination by the Texas Commission on Environmental Quality of the depth of useable quality ground water.
- 22) Evidence of insurance and security requirements under this Ordinance.
- 23) A statement, under oath, signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct.
- 24) All required application and Gas & Oil Well Permit fees.

SEC. 7-62. GAS & OIL WELL PERMIT CLASSIFICATIONS**HIGH IMPACT GAS & OIL WELL PERMIT**

- A.** High Impact Gas & Oil Well Permit shall be required if the proposed well is to be located up to and including six hundred (600) feet of residence, religious institution, public building, hospital building, school or public park. This provision applies to any residence, religious institution, public building, hospital building or school which a building permit has been issued on the date the application for a permit is filed with the city. This provision applies to any public park as illustrated on the current Land Use Plan adopted by the city on the date the application for a permit is filed with the city.

For the purpose of a High Impact Gas & Oil Well Permit the measurement of the 600 foot distance shall be made from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building.

With written consent of any and all owners, trustees, and/or executors whose residence, religious institution, public building, hospital building, school, or public park is within 600 feet of the proposed well the gas & oil well permit classification may be changed from High Impact to Urban.

The burden of proof of legitimate written consent shall be upon the applicant/Operator.

B. Application Requirements.

An application for a High Impact Gas & Oil Well Permit shall include the following information:

- 1) All the requirements of Sec. 7-61 of this Ordinance;
- 2) A detailed site plan that includes all the information required in Section 7-61, but also includes specific details to the projected location of the major components of the drilling site, impacted vegetation, creeks and other topographic features, adjacent building and other structures and the measured distance from the well site to these buildings and structures, temporary and permanent fencing and landscaping.

C. Permitting Procedure.

- 1) Within forty-five (45) days of receipt of a complete application, the Planning Department shall place the matter on the City Council agenda for a public hearing and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has requested in writing to be so notified. The forty-five (45) day period shall not begin to run until the applicant/Operator has provided the Planning Department with a complete application package.
- 2) At least twenty (20) days, and no more than thirty (30) days prior to the date of the public hearing before the City Council for a High Impact Gas & Oil Well Permit under this Ordinance, Operator shall notify, at Operator's expense, each surface owner of property, as shown by the current tax roll, within six hundred (600) feet of the proposed

well not owned by or under lease to the Operator and the hearing date and time. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. The Operator shall file an affidavit with the Planning Department showing the name and last known address, as identified by the current tax roll, of each owner of property to whom notice was mailed and the names of each owner of property to whom notice is required to be given, but whose address is unknown. Notice shall be sent to all registered neighborhood associations within one-half mile of the proposed wellhead.

3) At least fifteen (15) days, and no more than twenty (20) days prior to the date of the public hearing before City Council for a High Impact Gas & Oil Well Permit* under this Ordinance, Operator shall publish a copy of the notice as outlined below, at Operator's expense, in one issue of a City newspaper for the equivalent of ten (10) consecutive days. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. The notice shall read as follows:

"Notice is hereby given that, acting under and pursuant to the Ordinances of the City of Decatur, Texas, on the _____ day of _____, 20____, _____ filed with the Planning Department of the City of Decatur, an application for a High Impact Gas & Oil Well Permit to drill, complete and operate a well for gas or oil* upon property located at _____, _____, Decatur, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat records of _____ County, Texas or per Tax Tract Number _____, _____ County, Texas. The City Council will conduct a public hearing on the request for said permit on the _____ day of _____, 20____ at _____ o'clock ____m. in the City Council Chambers located at 201 E. Walnut, Decatur, Texas

*Specify whether the permit is for gas or oil drilling.

4) At least twenty (20) days prior to the date of the public hearing before City Council for a High Impact Gas & Oil Well Permit under this Ordinance the Operator shall, at Operator's expense, erect at least one sign, no less than three feet by three feet, upon the premises upon which a High Impact Gas & Oil Well Permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property.

- a. The sign(s) shall substantially indicate that a High Impact Gas & Oil Well Permit to drill for gas or oil has been requested and state the date, time and place of the public hearing, and shall further set forth that additional information can be acquired by telephoning the applicant/Operator at the number indicated on the sign.
- b. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this Ordinance.

- c. Any sign(s) shall be removed subsequent to final action by the City Council.

All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

5) After a High Impact Permit application is submitted, the Planning Department shall evaluate the public impact of the proposed activity. The Planning Department shall consider the proposed site and the proposed operations or drilling program and shall draft recommended restrictions or conditions, including minimum separation distance for drilling or other operations, special safety equipment and procedures, recommended noise reduction levels, screening and any other requirements the Inspector deems appropriate. The recommendation shall be submitted to the City Council for consideration prior to the public hearing.

6) At the public hearing and before the City Council considers the merits of the application and the recommendations of the Planning Department, the applicant/Operator shall provide evidence of a certificate of publication establishing timely publication of the notice of the hearing, that timely actual notice of the hearing was given to all persons as required by this Ordinance and that the applicant/Operator has otherwise complied with or satisfied all other requirements of this Ordinance, including full and complete compliance with the insurance and security requirements.

7) The burden of proof on all matters considered in the hearing shall be upon the applicant/Operator.

8) The City Council shall review the application and any other related information. The City Council shall consider the following in deciding whether to grant a High Impact Gas & Oil Well Permit:

- a) Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there;
- b) Whether the drilling of such wells would conflict with the orderly growth and development of the City;
- c) Whether there are other alternative well site locations;
- d) Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the High Impact Gas & Oil Well Permit conditions to be imposed;
- e) Whether there is adequate access for the City fire personnel and fire fighting equipment;
- f) Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the Gas & Oil Well Permit conditions are reasonable and justified, balancing the following factors:
 - i. The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and
 - ii. The availability of alternative drill sites; and
- g) The recommendations of the Planning Department.

D. Wells setbacks for High Impact Gas & Oil Well Permit

It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located within three hundred (300) feet from any public park (unless prior consent is obtained from the City Council to drill in a public park pursuant to Sec. 7-60 G) or from any residence, religious institution, public building, hospital building or school for which a building permit has been issued on the date of the application for a drilling permit is filed with the Planning Department . The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building.

This setback distance may be reduced by the City Council to less than three hundred (300) feet from residence, religious institution, public building, hospital building, school or public park only when there is the unanimous consent of the property owners within a three hundred (300) foot radius around said well and the affirmative vote of not less than three-fourths of all the members of the City Council. For protection of the public health, safety and welfare, the City Council may impose additional requirements for a reduction of such distance.

Tank batteries, well facilities and equipment shall be located at least one hundred (100) feet from any public park (unless prior consent is obtained from the City Council to drill in a public park pursuant to Sec. 7-60 G) or from any residence, religious institution, public building, hospital building or school for which a building permit has been issued on the date of the application for a drilling permit is filed. The distance shall be calculated from the closest tank batteries, well facilities and/or equipment, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building.

E. Fencing for High Impact Gas & Oil Well Permit

- 1) A chain link fence with three-and-one-half inch mesh interwoven with opaque slats, a minimum of eight (8) feet but not to exceed ten (10) feet in height, shall enclose all completed wells and tanks located within a High Impact Gas & Oil Well Permit area.
- 2) Gates requirements and other fencing requirements as outlined in Sec. 7-70 of this Ordinance shall also be required.

F. Landscaping

Landscaping shall be required along all street frontages of the drill site with suitable screening shrubs that complement the architectural character of the surrounding neighborhood. Screening shrubs shall be installed completely around the well site and all fences and be sufficient to screen from view the structures sought to be screened. Screening shrubs shall be a minimum of three feet in height at planting, have the potential to grow to a mature height equal to or greater than the height of the tallest structure, including fencing, All plant materials should be drought tolerant.

The vegetation or berms shall be kept in an attractive state and in good condition at all times by the applicant or Operator.

G. Vehicle Routes for High Impact Gas & Oil Well Permit.

Vehicles associated with drilling and/or production in excess of three tons shall be restricted to such streets designated as either truck routes or commercial delivery routes by the City Code wherever capable of being used. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated. Commercial delivery route means any street or highway so designated by the City Council for the use by any commercial motor vehicle, truck-tractor, trailer, semi-trailer, or any combination thereof.

H. Work Hours for High Impact Gas & Oil Well Permit.

Site development, other than drilling, shall be conducted only between 6 a.m. and 7 p.m. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to between the hours of 6 a.m. to 7 p.m. except in cases of fires, blowouts, explosions and any other emergencies where the delivery of equipment is necessary to protect the public welfare.

I. Noise Restrictions for High Impact Gas & Oil Well Permit.

- 1) No drilling producing or related drilling operations shall produce a sound level greater than 78 dB(a) when measured at a distance of three hundred (300) feet from the production equipment in question. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions, four (4) feet above ground level, when measured at a distance of three hundred (300) feet from the production equipment. A maximum sound level of 85 dB(a) shall apply to formation fracturing when measured at a distance of three hundred (300) feet from the production equipment in question.
- 2) No person shall operate or permit to be operated in connection with the operation of a producing well any engine, compressor or motor-driven machinery of any type which creates a sound level greater than 65dB(a) when measured at a distance of three hundred (300) feet from the well site. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions measured at a distance of three hundred (300) feet from the well site.
- 3) Sound level measurements shall be made with a sound level meter conforming as a minimum, to the requirements of the American National Standards Institute and installed at Operators expense in specified locations.
- 4) If sound levels exceed the dB(a) levels cited in 1) and 2) of this subsection, the Inspector may require sound reducing mufflers.

- J. Tank Specifications for High Impact Gas & Oil Well Permit.** All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the Fire Marshall. The top of the tanks shall be no higher than eight (8) feet above the terrain surrounding the tanks. All tanks shall be set back pursuant to the standards of the Commission and the National Fire Protection Association, but in all cases, shall be at least thirty-five (35) feet from any public right-of-way or property line.
- K.** All other provisions outlined in this Ordinance shall be required.

URBAN GAS & OIL WELL PERMIT.

- A. Urban Gas & Oil Well Permit shall be required if the proposed well is to be located up to and including one thousand (1000) feet of residence, religious institution, public building, hospital building, school or public park. This provision applies to any residence, religious institution, public building, hospital building or school which a building permit has been issued on the date the application for a permit is filed with the city. This provision applies to any public park as illustrated on the current Land Use Plan adopted by the city on the date the application for a permit is filed with the city.

For the purpose of a Urban Gas & Oil Well Permit the measurement of the 1000 foot distance shall be made from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building.

With written consent of any and all owners, trustees, and/or executors whose residence, religious institution, public building, hospital building, school, or public park is within 1000 feet of the proposed well the gas & oil well permit classification may be changed from High Impact to Urban.

The burden of proof of legitimate written consent shall be upon the applicant/Operator.

B. Notice for Urban Gas & Oil Well Permit.

1) At least ten (10) days prior to the date of filing of an application for an Urban Gas & Oil Well Permit with the Planning Department under this Ordinance, Operator shall notify, at the expense of the Operator, each surface owner of property, as shown by the current tax roll, within three hundred (300) feet of the proposed well not owned by or under lease to the Operator. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. The Operator shall file with the application an affidavit showing the name and last known address, as identified by the current tax roll, of each owner of property to whom notice was mailed and the names of each owner of property to whom notice is required to be given, but whose address is unknown. Notice shall be sent to all registered neighborhood associations within one-half mile of the proposed wellhead.

2) "Notice is hereby given that, acting under and pursuant to the Ordinances of the City of Decatur, Texas, on the _____ day of _____, 20____, _____ filed with the Planning Department of the City of Decatur, an application for a Urban Gas & Oil Well Permit to drill, complete and operate a well for gas or oil* upon property located at _____, _____, Decatur, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat records of _____ County, Texas or per Tax Tract Number _____, _____ County, Texas. The City Council will conduct a public hearing on the request for said permit on the _____ day of _____, 20____ at _____ o'clock ____m. in the City Council Chambers located at 201 E. Walnut, Decatur, Texas.

*Specify whether the permit is for gas or oil drilling.

3) At least ten (10) days prior to the date of filing of an application for an Urban Gas & Oil Well Permit under this Ordinance with the Planning Department, the Operator, at Operator's expense, shall erect at least one sign, no less than three feet by three feet, upon the premises upon which an Urban Gas & Oil Well Permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property.

- a. The sign(s) shall substantially indicate that an Urban Gas & Oil Well Permit to drill for gas & oil has been requested and shall further set forth that additional information can be acquired by telephoning the Operator at the number indicated on the sign.
- b. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this Ordinance.
- c. Any sign(s) shall be removed subsequent to final action by the Inspector or the City Council.

All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

C. Fencing for Urban Gas & Oil Well Permit.

- 1) A chain link fence with three-and-one-half inch mesh interwoven with opaque slats, a minimum of eight (8) feet in height, shall enclose all completed wells and tanks located within an Urban Gas & Oil Well Permit area.
- 2) Gate requirements and fencing requirements as outlined in Sec. 7-70 of this Ordinance shall also be required.

D. Landscaping

Landscaping shall not be required for Urban Gas & Oil Well Permits until such time as the immediate area (within 600 feet of the wellhead) develops into an area of single or multi-family residences, commercial/retail establishments, religious institutions, public buildings, hospitals, or public parks then landscaping suitable to the surrounding area will be required. Landscaping plans shall be submitted to the Planning Director for approval.

E. Vehicle Routes for Urban Gas & Oil Well Permit.

Vehicles associated with drilling and/or production in excess of three tons shall be restricted to such streets designated as either truck routes or commercial delivery routes by the City Code wherever capable of being used. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated. Commercial delivery route means any street

or highway so designated by the City Council for the use by any commercial motor vehicle, truck-tractor, trailer, semi-trailer, or any combination thereof.

E. Noise Restrictions for Urban Gas & Oil Well Permit.

- 1) No drilling, producing or other operations shall produce a sound level greater than 85 dB(a) when measured at a distance of three hundred (300) feet from the production equipment in question. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions, four (4) feet above ground level, measured at a distance of three hundred (300) feet from the production equipment. A maximum sound level of 90 dB(a) shall apply to formation fracturing when measured at a distance of three hundred (300) feet from the production equipment in question.
- 2) No person shall operate or permit to be operated in connection with the operation of a producing well any engine, compressor or motor-driven machinery of any type which creates a sound level greater than 78dB(a) when measured at a distance of three hundred (300) feet from the well site. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions measured at a distance of three hundred (300) feet from the well site.
- 3) Sound level measurements shall be made with a sound level meter conforming, as a minimum, to the requirements of the American National Standards Institute and installed at the Operator's expense in specified locations.
- 4) If sound levels exceed the dB(a) levels cited in 1) and 2) of this subsection, the Inspector may require sound reducing mufflers.

F. Tank Specifications for Urban Gas & Oil Well Permit. All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the Fire Marshall. The top of the tanks shall be no higher than twelve (12) feet above the terrain surrounding the tanks. All tanks shall be set back pursuant to the standards of the Commission and the National Fire Protection Association, but in all cases, shall be at least thirty-five (35) feet from any public right-of-way or property line.

G. All other provisions outlined in this Ordinance shall be required.

RURAL GAS & OIL WELL PERMIT.

- A. A Rural Gas & Oil Well Permit shall be required if the proposed well is located on an open space of not less than twenty-five acres and no production equipment shall be located within one thousand (1,000) feet of a public park or any residence, religious institution, public building, hospital building or school. This provision applies to any residence, religious institution, public building, hospital building or school which a building permit has been issued on the date the application for a permit is filed with the city. This provision applies to any public park as illustrated on the current Land Use Plan adopted by the city on the date the application for a permit is filed with the city.

For the purpose of a Rural Gas & Oil Well Permit the measurement of the 1000 foot distance shall be made from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building.

The burden of proof of legitimate written consent shall be upon the applicant/Operator.

B. Notice for Rural Gas & Oil Well Permit.

- 1) "Notice is hereby given that, acting under and pursuant to the Ordinances of the City of Decatur, Texas, on the _____ day of _____, 20____, _____ filed with the Planning Department of the City of Decatur, an application for a Rural Gas & Oil Well Permit to drill, complete and operate a well for gas or oil* upon property located at _____, _____, Decatur, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat records of _____ County, Texas or per Tax Tract Number _____, _____ County, Texas. The City Council will conduct a public hearing on the request for said permit on the _____ day of _____, 20____ at _____ o'clock ____m. in the City Council Chambers located at 201 E. Walnut, Decatur, Texas

*Specify whether the permit is for gas or oil drilling.

- 2) At least ten (10) days prior to the date of filing with the Planning Department an application for a Rural Gas & Oil Well Permit under this Ordinance, the Operator shall erect at least one sign, no less than three feet by three feet, upon the premises upon which a Rural Gas & Oil Well Permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property.
- a. The sign(s) shall substantially indicate that a Rural Gas & Oil Well Permit to drill for gas & oil has been requested and shall further set forth that additional information can be acquired by telephoning the Operator at the number indicated on the sign.

- b. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this Ordinance.
 - c. Any sign(s) shall be removed subsequent to final action by the Inspector or the City Council.
- 3) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

C. Fencing for Rural Gas & Oil Well Permit.

- 1) A chain link fence with three-and-one-half inch mesh interwoven with opaque slats, a minimum of six feet in height, shall enclose all completed wells and tanks located within a Rural Gas & Oil Well Permit area.
- 2) Gate requirements and other fencing requirements as outlined in Sec. 7-70 of this Ordinance shall also be required.

D. Vehicle Routes for Rural Gas & Oil Well Permit.

Vehicles associated with drilling and/or production in excess of three tons shall be restricted to such streets designated as either truck routes or commercial delivery routes by the City Code wherever capable of being used. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated. Commercial delivery route means any street or highway so designated by the City Council for the use by any commercial motor vehicle, truck-tractor, trailer, semi-trailer, or any combination thereof.

E. Noise Restrictions for Rural Gas & Oil Well Permit.

- 1) No drilling, fracing, producing or other operations shall produce a sound level greater than 90 dB(a) when measured at a distance of five hundred (500) feet from the production equipment in question. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions, four (4) feet above ground level, at a distance of five hundred (500) feet from the production equipment.
- 2) No person shall operate or permit to be operated in connection with the operation of a producing well any engine, compressor or motor-driven machinery of any type which creates a sound level greater than 78dB(a) when measured at a distance of five hundred (500) feet from the well site. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions at a distance of five hundred (500) feet from the well site.

- 3) Sound level measurements shall be made with a sound level meter conforming as a minimum, to the requirements of the American National Standards Institute and installed at the Operator's expense in specified locations.
- 4) If sound levels exceed the dB(a) levels cited in 1) and 2) of this subsection, the Inspector may require sound reducing mufflers.

F. Tank Specifications for Rural Gas & Oil Well Permit.

All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the Fire Chief. The top of the tanks shall be no higher than fifteen (15) feet above the terrain surrounding the tanks. All tanks shall be set back pursuant to the standards of the Commission and the National Fire Protection Association, but in all cases, shall be at least twenty-five (25) feet from any public right-of-way or property line.

G. Landscaping

Landscaping shall not be required for Rural Gas & Oil Well Permits until such time as the immediate area (within 600 feet of the wellhead) develops into an area of single or multi-family residences, commercial/retail establishments, religious institutions, public buildings, hospitals, or public parks then landscaping suitable to the surrounding area will be required. Landscaping plans shall be submitted to the Planning Director for approval.

H. All other provisions outlined in this Ordinance shall be required.

SEC. 7-63. ISSUANCE OF RURAL & URBAN GAS & OIL WELL PERMITS.

- A.** It is the responsibility of the Planning Department to review and approve or disapprove all applications for gas & oil well drilling permits based on the criteria established by this Ordinance. The Planning Department, within 30 days after the filing of a completed application and remittance of all fees, insurance and security per the requirements of this Ordinance for a Gas & Oil Well Permit, shall determine whether or not the application complies in all respects with the provisions of this Ordinance and determine if the proposed well to be drilled or the facility to be installed is in compliance with the distance requirements for the requested Gas & Oil Well Permit on the date the completed application is received by the Planning Department.
- B.** The provisions of this Ordinance shall apply to any dwellings or buildings for which an application for a building permit has been submitted on the date the application for a Gas & Oil Well Permit is filed with the Planning Department.
- C.** If all the requirements of this Ordinance are met, the Planning Department shall issue a Gas & Oil Well Permit for the drilling of the well or the installation of the facilities applied for.
- D.** If the Planning Department denies an Urban or Rural Gas & Oil Well Permit application for reasons other than lack of required distance as set out in this Ordinance for the

requested Gas & Oil Well Permit, the department shall notify the Operator in writing of such denial stating the reasons for the denial. Within thirty (30) days of the date of the written decision of the Planning Department to deny the Gas & Oil Well Permit, the Operator may: 1) cure those conditions that caused the denial and resubmit the application to the Planning Department for approval and issuance of the Gas & Oil Well Permit; or 2) file an appeal to the City Council under the provisions outlined in this Ordinance pursuant to Sec. 7-74, "APPEALS" of this Ordinance.

- E. If the Planning Department determines that all of the provisions of this Ordinance have been complied with by the Operator but that the proposed drill site does not comply with the distance requirements of this Ordinance under the requested Urban or Rural Gas & Oil Well Permit, the department shall notify the Operator. The Operator may revise the permit to comply with either an Urban Gas & Oil Well Permit or Rural Gas & Oil Well permit or the Planning Department shall notify the City Manager and the City Manager shall place the request for a Gas & Oil Well Permit and variance to this Ordinance on the City Council agenda for public hearing within the next forty-five (45) days.

Variance Request for Gas & Oil Well Permits

1. Not less than fifteen (15) days prior to the date set for the hearing by the City Council the Operator, at the expense of the Operator, shall:
 - a) Notify all owners of real property as the ownership appears on the last certified tax roll of the applicable City or County Appraisal District within the applicable distance of the proposed well location and hearing per the requested Gas & Oil Well Permit. Such notice shall be served by depositing the same, postage paid, in the United States mail;
 - b) Publish notice of the hearing at least one time in an official newspaper; and
 - c) Post a sign no less than three feet by three feet on the drill site premises or the nearest public street, road or right-of-way to the drill site that shall substantially indicate that a Gas & Oil Well Permit to drill for gas or oil has been requested and shall further set forth that additional information can be acquired by telephoning the number of the Operator as indicated thereon.
 - d) The erection and/or continued maintenance of any such sign shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this Ordinance.
2. The City Council shall review the request for variance, application, and any other related information.
3. The City Council shall consider the following in deciding whether to grant a Rural or Urban Gas & Oil Well Permit:

- a) Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there;
 - b) Whether the drilling of such wells would conflict with the orderly growth and development of the City;
 - c) Whether there are other alternative well site locations;
 - d) Whether conditions should be imposed when and if conducted in accordance with the High Impact Gas & Oil Well Permit;
 - e) Whether there is adequate access for the City fire personnel and fire fighting equipment;
 - f) Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the Gas & Oil Well Permit conditions are reasonable and justified, balancing the following factors:
 - i. The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals;
 - ii. The availability of alternative drill sites; and
 - g) The recommendations of the Planning Department.
- F.** Following the public hearing, the City Council may grant such Gas & Oil Well Permit upon such terms and conditions as it determines to be necessary to protect the public health and safety. The City Council may require changes in the operations, plan, design, layout, fencing, screening, lighting, or other matters reasonably required in the interest of the public.
- G.** In making its decision, the City Council shall have the power and authority to refuse any Gas & Oil Well Permit to drill any well at any particular location within the City, when by reason of such particular location and other characteristics, the drilling of such wells at such particular location would be injurious to the health, safety, welfare, or the orderly growth and development of the inhabitants within, and in the immediate area of, the City.
- H.** If the Operator elects not to accept the Gas & Oil Well Permit under the terms and conditions imposed by the City Council and wishes to withdraw his application, the Operator must notify the Planning Department in writing of his decision and the City shall retain all applicable processing and filing fees.

All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

SEC. 7-64 BLANKET PERMITS

Operators are encouraged to provide a master plan for proposed Gas & Oil Wells within a unit if multiple wells are located on the same tract of land. The blanket permit would provide all information necessary for individual permitting, however duplicity may be eliminated. Each Blanket permit shall also include:

1. Graphic illustration of all proposed wells within the unit, enumerated for reference, on a scaled drawing (1"=1000' max or alternate scale as approved by the Planning Department) to fit standard 24 x 36 paper.

2. Location of proposed transmission pipelines.
If transmission lines are not shown on the application for drilling permit, a separate application for the transmission lines will be required when their proposed location becomes defined and prior to any stage of construction of those lines.
3. Required information for each individual well.
4. Summary of insurance information (sec. 7-68)
5. Permit fee equal to the cost of each individual drilling permit, minus ten percent (10%).

SEC. 7-65 AMENDED GAS & OIL WELL PERMITS.

- A. An Operator may submit an application to the Planning Department to amend an existing Gas & Oil Well Permit to commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) the existing Gas & Oil Well Permit, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing Gas & Oil Well Permit, or to otherwise amend the existing Gas & Oil Well Permit.
- B. Applications for amended Gas & Oil Well Permits shall be in writing, shall be signed by the Operator, and shall include the following:
 - 1) The application fee as set by this ordinance;
 - 2) A description of the proposed amendments;
 - 3) Any changes to the information submitted with the application for the existing Gas & Oil Well Permit (if such information has not previously been provided to the City);
 - 4) Such additional information as is reasonably required by the Planning Department to demonstrate compliance with the applicable Gas & Oil Well Permit; and
 - 5) Such additional information as is reasonably required by the Inspector to prevent imminent destruction of property or injury to persons.
- C. All applications for amended Gas & Oil Well Permits shall be filed with the Planning Department for review. Incomplete applications may be returned to the applicant, in which case the City shall provide a written explanation of the deficiencies; however, the City shall retain the application fee. The City may return any application as incomplete if there is a dispute pending before the Railroad Commission regarding the determination of the Operator.
- D. If the activities proposed by the amendment are not materially different from the activities covered by the existing Gas & Oil Well Permit, and if the proposed activities are in conformance with the applicable Gas & Oil Well Permit, then the Planning Department shall approve the amendment within fifteen (15) days after the application is filed.
- E. If the activities proposed by the amendment are materially different from the activities covered by the existing Gas & Oil Well Permit, and if the proposed activities are in conformance with the applicable Gas & Oil Well Permit, then the Planning Department shall approve the amendment within thirty (30) days after the application is filed. If, however, the activities proposed by the amendment are materially different and, in the

judgment of the Planning Department, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing Gas & Oil Well Permit or that was not otherwise taken into consideration by the existing Gas & Oil Well Permit, the Planning Department may require the amendment to be processed as a new Gas & Oil Well Permit application.

- F.** The failure of the Planning Department to review and issue an amended Gas & Oil Well Permit within the time limits specified above shall not cause the application for the amended Gas & Oil Well Permit to be deemed approved.
- G.** The decision of the Planning Department to deny an amendment to a Gas & Oil Well Permit shall be provided to the Operator in writing within 10 days after the decision, including an explanation of the basis for the decision. The Operator may appeal any such denial to the City Council.

SEC. 7-66. SUSPENSION OR REVOCATION OF GAS & OIL WELL PERMIT; EFFECT.

- A.** If an Operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a Gas & Oil Well Permit (including any requirement incorporated by reference as part of the Gas & Oil Well Permit), the Inspector shall give written notice to the Operator specifying the nature of the failure and giving the Operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than ten (10) days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the Operator's failure to provide periodic reports as required by this Ordinance.
- B.** If, the Operator fails to correct the noncompliance within thirty (30) days from the date of the notice, the Inspector may suspend or revoke the Gas & Oil Well Permit pursuant to the provisions of this Ordinance.
- C.** No person shall carry on any operations performed under the terms of the Gas & Oil Well Permit issued under this Ordinance during any period of any Gas & Oil Well Permit suspension or revocation or pending a review of the decision or order of the City in suspending or revoking the Gas & Oil Well Permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the Gas & Oil Well Permit was ordered for the safety of persons or as required by the Commission.
- D.** If the Operator does not cure the noncompliance within the time specified in this Ordinance, the Planning Department, upon written notice to the Operator, may notify the Commission and request that the Commission take any appropriate action.
- E.** Operator may, within thirty (30) days of the date of the decision of the Inspector in writing to suspend or revoke a Gas & Oil Well Permit, file an appeal to the City Council under the provisions outlined in this Ordinance pursuant to SEC. 7-74, "APPEALS" of this Ordinance.

- F. If an application for a Gas & Oil Well Permit is denied by the Planning Department, nothing herein contained shall prevent a new permit application from being submitted to the Planning Department for the same well.

SEC. 7-67. PERIODIC REPORTS.

- A.** The Operator shall notify the Planning Department of any changes to the following information within one business week after the change occurs:
- 1) The name, address, and phone number of the Operator;
 - 2) The name, address, and phone number of the person designated to receive notices from the city (which person must be a resident of Texas that can be served in person or by registered or certified mail); and
 - 3) The Operator's Emergency Action Response Plan (including "drive-to-maps" from public rights-of-way to each drill site).
- B.** The Operator shall notify the Planning Department of any change to the name, address, and 24-hour phone number of the person(s) with supervisory authority over drilling or operations activities within one business day.
- C.** The Operator shall provide a copy of any "incident reports" or written complaints submitted to the Railroad Commission within ten (10) days after the Operator has notice of the existence of such reports or complaints.
- D.** Beginning on December 31st after each well is completed, and continuing on each December 31st thereafter until the Operator notifies the Inspector that the well has been abandoned and the site restored, the Operator shall submit a written report to the Inspector if there are any changes to the information that was included in the application for the applicable Gas & Oil Well Permit that have not been previously reported to the City.

DIVISION V. INSURANCE, BOND AND INDEMNITY**SEC. 7-68. BOND, LETTERS OF CREDIT, INDEMNITY, INSURANCE.****A. General Requirements**

The Operator shall be required to:

- 1) Comply with the terms and conditions of this Ordinance and the Gas & Oil Well Permit issued hereunder.
- 2) Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed, or occurring in the operations, and after abandonment or completion grade, level and restore such property to the same surface conditions as nearly as possible as existed before operations.
- 3) Indemnify and hold harmless the City, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by Operator under a Gas & Oil Well Permit:

- a. where such injuries, death or damages are caused by Operator's sole negligence or the joint negligence of Operator and any other person or entity; and
 - b. regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of Operator.
- 4) Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the Gas & Oil Well Permit.
- 5) Promptly restore to its former condition any public property damaged by the gas or oil operation.

B. Bond, Irrevocable Letter of Credit

- 1) Prior to the issuance of a Gas & Oil Well Permit the Operator shall provide the Planning Department with a security instrument in the form of a bond or an irrevocable letter of credit as follows:
 - a. Bond. A bond shall be executed by a reliable bonding or insurance institution authorized to do business in Texas, acceptable to the City. The bond shall become effective on or before the date the Gas & Oil Well Permit is issued and shall remain in force and effect for at least a period of six (6) months after the expiration of the Gas & Oil Well Permit term or until the well is plugged and abandoned and the site is restored, whichever occurs first. The Operator shall be listed as principal and the instrument shall run to the City, as obligee, and shall be conditioned that the Operator will comply with the terms and regulations of this Ordinance and the City. The original bond shall be submitted to the Planning Department with a copy of the same provided to the City Secretary.
 - b. Letter of Credit. A letter of credit shall be issued by a reliable bank authorized to do business in Texas and shall become effective on or before the date the Gas & Oil Well Permit is issued. The letter of credit shall remain in force and effect for at least a period of six (6) months after the expiration of the Gas & Oil Well Permit term. The City shall be authorized to draw upon such letter of credit to recover any fines or penalties assessed under this ordinance. Evidence of the execution of a letter of credit shall be submitted to the Planning Department by submitting an original signed letter of credit from the banking institution, with a copy of the same provided to the City Secretary.
- 2) The principal amount of any security instrument shall be Fifty Thousand Dollars (\$50,000) for any single well. If, after completion of a well, the Applicant/Operator, who initially posted a fifty thousand dollar (\$50,000) bond, has complied with all of the provisions of this Ordinance and whose well is in the producing stage and all drilling operations have ceased, may submit a request to the Planning Department to reduce the existing bond to ten thousand dollars (\$10,000) for the remainder of the time the well produces without reworking. During reworking operations, the amount of the bond or letter of credit shall be maintained at fifty thousand dollars (\$50,000).

If at any time after no less than a fifteen (15) day written notice to the Operator and a public hearing, the City Council shall deem any Operator's bond or letter of credit to be insufficient, it may require the Operator to increase the amount of the bond or letter of credit up to a maximum of two hundred and fifty thousand dollars (\$250,000) per well.

An operator who permits numerous wells within the city may elect to provide a blanket bond or letter of credit in the principal amount of two-hundred fifty thousand (\$250,000) dollars. The blanket bond shall be deemed to be sufficient for all operations, including drilling, completion, re-working, and production.

- 3) Whenever the Inspector finds that a default has occurred in the performance of any requirement or condition imposed by this Ordinance, a written notice shall be given to the Operator. Such notice shall specify the work to be done, the estimated cost and the period of time deemed by the Inspector to be reasonably necessary for the completion of such work. After receipt of such notice, the Operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the City one hundred twenty-five (125) percent of the estimated cost of doing the work as set forth in the notice. In no event, however, shall the cure period be less than thirty (30) days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the Operator's failure to provide periodic reports as required by this Ordinance.

The City shall be authorized to draw against any irrevocable letter of credit or bond to recover such amount due from the Operator. Upon receipt of such monies, the City shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the Commission, such additional money may be demanded from the Operator as is necessary to properly plug and abandon the well and restore the drill site in conformity with the regulations of this Ordinance.

- 4) In the event the Operator does not cause the work to be performed and fails or refuses to pay over to the City the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the City against the applicable irrevocable letter of credit or bond the City may proceed to obtain compliance and abate the default by way of civil action against the Operator, or by criminal action against the Operator, or by both such methods.
- 5) When the well or wells covered by said irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this Ordinance, and in conformity with all regulations of the Commission and notice to that effect has been received by the City, or upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

- C. **Insurance.** In addition to the bond or letter of credit required pursuant to this Ordinance, the Operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in Texas. In the event such insurance policy or

policies are cancelled, the Gas & Oil Well Permit shall be suspended on such date of cancellation and the Operator's right to operate under such Gas & Oil Well Permit shall immediately cease until the Operator files additional insurance as provided herein.

1) General Requirements applicable to all policies.

- a. The City, its officials, employees, agents and officers shall be endorsed as an "Additional Insured" to all policies except Employers Liability coverage under the Operator's Workers Compensation policy.
- b. All policies shall be written on an occurrence basis except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess or Umbrella Liability, which may be on a claims-made basis.
- c. All policies shall be written by an insurer with an A-: VIII or better rating by the most current version of the A. M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the City.
- d. Deductibles shall be listed on the Certificate of Insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.
- e. Certificates of Insurance shall be delivered to the City of Decatur, Development Department, 210 E. Walnut, Decatur, Texas 76234, evidencing all the required coverages, including endorsements, prior to the issuance of a Gas & Oil Well Permit.
- f. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
- g. Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
- h. Each policy shall be endorsed to provide the City a minimum thirty-day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten days notice shall be acceptable in the event of non-payment of premium.
- i. During the term of the Gas & Oil Well Permit, the Operator shall report, in a timely manner, to the Inspector any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- j. Upon request, certified copies of all insurance policies shall be furnished to the City.

2) **Standard Commercial General Liability Policy.**

This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.

3) Excess or Umbrella Liability

- \$ 5,000,000 Excess, if the Operator has a stand-alone Environmental Pollution Liability (EPL) policy.
- \$10,000,000 Excess, if the Operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If Seepage and Pollution coverage is written on a "claims made" basis, the Operator must maintain continuous coverage and purchase Extended Coverage Period Insurance when necessary.

4) Environmental Pollution Liability Coverage.

- a. Operator shall purchase and maintain in force for the duration of the Gas & Oil Well Permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least \$1,000,000 per loss, with an annual aggregate of at least \$10,000,000.
- b. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.
- c. The Operator shall maintain continuous coverage and shall purchase Extended Coverage Period insurance when necessary. The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.

5) Control of Well

The policy should cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the Operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents.

- \$ 5,000,000 per occurrence/no aggregate, if available, otherwise an aggregate of ten (10) million dollars.
- \$ 500,000 Sub-limit endorsement may be added for damage to property for which the Operator has care, custody and control.

6) Certificates of Insurance

- a. The company must be admitted or approved to do business in the State of Texas, unless the coverage is written by a Surplus Lines insurer.

- b. The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO, or an equivalent policy form acceptable to the City, with the exception of Environmental Pollution Liability and Control of Well coverage.
- c. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
- d. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT 30 DAYS ADVANCED WRITTEN NOTICE TO THE OWNER AND THE CITY OF DECATUR EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE 10 DAYS ADVANCE WRITTEN NOTICE IS REQUIRED".
- e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

D. Indemnification and Express Negligence Provisions

- 1) Each Gas & Oil Well Permit issued by the Planning Department shall include the following language: Operator does hereby expressly release and discharge, all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or assigns may have, or claim to have, against the City of Decatur, and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the Operator under a Gas & Oil Well Permit. The Operator shall fully defend, protect, indemnify, and hold harmless the City of Decatur, Texas, its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the City of Decatur, Texas, its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by Operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the Operator under a Gas & Oil Well Permit. The Operator agrees to indemnify and hold harmless the City of Decatur, Texas, its departments, its officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the City, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the City of Decatur occurring on the drill site or operation site in the course and scope of inspecting and permitting the gas or oil wells INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF DECATUR OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE GAS OR OIL WELLS. IT IS

UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY OF DECATUR, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF DECATUR, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE.

- E. Notice.** The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail. Every Operator shall within ten (10) days notify the Planning Department in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.
- F. Acceptance and Indemnity Agreement.** The Operator who has a net worth of not less than twenty-five million dollars (\$25,000,000), as shown in such Owner's or Operator's most recent audited financial statements, may substitute an acceptance and indemnity agreement in lieu of the bond or irrevocable letter of credit and insurance requirements set forth in this Ordinance, provided that such acceptance and indemnity agreement shall be in a form acceptable to, and approved by, the City Attorney and the Director of Risk Management of the City. The Planning Department may request an annual review of the Operator's most recent audited financial statements to assure compliance with this section.

DIVISION VI. ON SITE AND TECHNICAL REGULATIONS.**SEC. 7-69. TECHNICAL REGULATIONS.****A. On Site Requirements.**

- 1) **Abandoned Wells.** All wells shall be abandoned in accordance with the rules of the Railroad Commission; however, all well casings shall be cut and removed to a depth of at least feet (3') below the surface unless the surface owner submits a written agreement otherwise. No structures shall be built over an abandoned well.
- 2) **Blowout prevention.** In all cases, blowout prevention equipment shall be used on all wells being drilled, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout during gas & oil operations as required by and in conformance with the requirements of the Commission and the recommendations of the American Petroleum Institute. The Operator must equip all drilling wells with adequate blowout preventors, flow lines and valves commensurate with the working pressures involved as required by the Commission.
- 3) **Compliance.** Operator shall comply at all times with all applicable federal, state and City requirements.
- 4) **Discharge.** No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including wastewater or brine from any gas or oil operation or the contents of any container used in connection with any gas or oil operation in, into, or upon any public right-of-way, alleys, streets, lots, storm drain, ditch or sewer, sanitary drain or any body of water or any private property in the City.
- 5) **Drill Stem testing.** All open hole formation or drill stem testing shall be done during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate gas separator to storage tanks and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.
- 6) **Dust, Vibration, Odors.** All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of gas, oil and other hydrocarbon substances in urban areas. All equipment used shall be so constructed and operated so that, vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry

standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

- 7) **Electric lines.** All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.
- 8) **Electric motors.** Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the City ordinances and the appropriate national codes.
- 9) **Emergency Response Plan.** Prior to the commencement of any gas, oil or other hydrocarbons production activities, Operator shall submit to the Planning Department an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of gas & oil wells. Said plan shall use existing guidelines established by the Commission, Texas Natural Resource Conservation Commission, Department of Transportation and/or the Environmental Protection Agency.
- 10) **Equipment painted.** All production equipment on the site shall be painted (in conformance with section 7-71) and maintained at all times, including pumping units, storage tanks, buildings and structures.
- 11) **Fire prevention; sources of ignition.** Firefighting apparatus and supplies as approved by the Fire Department and required by any applicable federal, state, or local law shall be provided by the Operator, at the Operator's cost, and shall be maintained on the drilling site at all times during drilling and completion operations. The Operator shall be responsible for the maintenance and upkeep of such equipment. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All well heads shall contain an emergency shut off valve to the well distribution line.
- 12) **Fresh Water Wells.** It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located within two hundred (200) feet to any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore. The operator of a gas or oil well shall provide the Inspector with a "pre-drilling" and "post-drilling" water analysis from any fresh water well within five hundred (500) feet of the gas or oil well. Within 180 days of its completion date, each gas or oil well shall be equipped with a cathodic protection system to protect the production casing from external corrosion. The Inspector may approve an alternative method of protecting the production casing from external corrosion.
- 13) **Gas emission or burning restricted.** No person shall allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Commission. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by

law or as permitted by the Commission, then such vent or open flame shall not be located closer than three hundred (300) feet from any building not used in operations on the drilling site and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.

- 14) **Grass, weeds, trash.** All drill and operation sites shall be kept clear of high grass, weeds, and combustible trash within a radius of one hundred (100) feet around any gas or oil tank or tanks or producing wells.
- 15) **Hazardous Plan.** Hazardous Materials Management Plan shall be on file with the Fire Marshal and the Inspector.
- 16) **Lights.** No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three hundred (300) feet.
- 17) **Muffling exhaust.** Exhaust from any internal combustion engine, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.

All formation fracturing operations shall be conducted during daylight hours unless the Operator has notified the Inspector that fracing will occur before or after daylight hours to meet safety requirements.
- 18) **Pits.** Earthen mud or circulating pits shall be used. Such pits and contents shall be removed from the premises and the drilling site within sixty (60) days after completion of the well.
- 19) **Private roads and drill sites.** Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site itself shall be at least ten (10) feet wide, have an overhead clearance of fourteen (14) feet and shall be surfaced with crushed rock, gravel or ore and maintained to prevent dust and mud. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the Planning Department and the City Director of Transportation and Public Works after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind.

- 20) Salt Water Wells.** No disposal wells, including but not limited to salt water disposal wells, shall be located within the City of Decatur.
- 21) Signs.**
- a. A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to Sec. 7-70 of this Ordinance. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the Commission, shall have a surface area of not less than two (2) square feet nor more than four (4) square feet and shall be lettered with the following:
 - 1) Well name and number
 - 2) Name of Operator;
 - 3) The emergency 911 number; and
 - 4) Telephone numbers of two (2) persons responsible for the well who may be contacted in case of emergency.
 - b. Permanent weatherproof signs reading “DANGER NO SMOKING ALLOWED” shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by the Fire Chief of the City. Sign lettering shall be four (4) inches in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the Fire Department and the Operator, well and lease designations required by the Commission.
- 22) Storage of equipment.** On-site storage is prohibited on the operation site. No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site.
- No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for drilling or production operations on the site. The Fire Department shall be the entity that determines whether any equipment on the site shall constitute a fire hazard. No refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises.
- 23) Storage Tanks.** All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the Fire Chief. All storage tanks shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be a minimum of three feet (3') in height and one and one-half (1 ½) times the contents of the largest tank in accordance with the Fire Code, and buried at least one foot (1') below the surface. Drip pots shall

be provided at the pump out connection to contain the liquids from the storage tank.

All tanks shall be set back pursuant to the standards of the Commission and the National Fire Protection Association, but in all cases, shall be at least twenty-five (25) feet from any public right-of-way or property line. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank.

- 24) Tank Battery Facilities.** Tank battery facilities shall be equipped with a remote foam line and a lightning arrestor system.

Tanks must be at least two hundred (200)' from any residence, religious institution, public building, hospital building, school or public park.

- 25) Surface casing.** Surface casing must be new and shall be run and set in full compliance with the applicable rules and regulations of the Commission.

- 26) Valves.** Each well must have a shutoff valve to terminate the well's production. The Fire Department shall have access to the well site to enable it to close the shut-off the valve in an emergency.

- 27) Waste Disposal.** Unless otherwise directed by the Commission, all tanks used for storage shall conform to the following:

Operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, flame arrester and pressure relief valve. All tanks must be enclosed by a fence applicable to the issued permit classification.

Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into an earthen pit. All disposals must be in accordance with the rules of the Commission and any other appropriate local, state or federal agency.

Unless otherwise directed by the Commission, waste materials shall be removed from the site and transported to an off-site disposal facility not less often than every thirty (30) days. Water stored in on-site tanks shall be removed as necessary.

All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the State, this Ordinance and any other applicable ordinance of the City.

- 28) Watchman.** The Operator must keep a watchman or security personnel on site during the drilling or re-working of a well when other workmen are not on the premises.

B. Well setbacks.

It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:

- 1) Within twenty-five (25) feet from any outer boundary line; or
- 2) Within twenty-five (25) feet from any storage tank, or source of ignition; or
- 3) Within seventy-five (75) feet of any public street, road, highway or future street, right-of-way or property line; or
- 4) Within three hundred (300) feet from any building used, or designed and intended to be used, for human occupancy or
- 5) Within one hundred (100) feet of any building accessory to, but not necessary to the operation of the well; or
- 6) Within two hundred (200) feet to any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.

The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any object listed in 1) through 6) above.

The distances set out in subsection 1), 3), 4), or 6) of this section may be reduced at the discretion of the City Council, but never less than two hundred (200) feet from any dwelling or any other building used, or designed and intended to be used, for human occupancy without the unanimous consent of the property owners within a two hundred (200) foot radius around said well and the affirmative vote of not less than three-fourths of all the members of the City Council. For protection of the public health, safety and welfare, the City Council may impose additional requirements for a reduction of such distance.

C. Installation of pipelines on, under or across public property.

The Operator shall apply to the City for a franchise agreement on, over, under, along or across the City streets, sidewalks, alleys and other City property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may be continued under any Gas & Oil Well Permit issued pursuant to this Ordinance. Operator shall:

- 1) Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such rights-of way.
- 2) Furnish to the Director of Development of the City a plat showing the location of such pipelines.
- 3) Construct such lines out of pipe in accordance with the City codes and regulations properly cased and vented if under a street;
- 4) Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed when operations for the drilling of the well were first commenced.

No Gas & Oil Well Permit shall be issued for any well to be drilled within any of the streets or alleys of the City and/or projected streets or alleys shown by the current comprehensive plan of the City, and no street or alley shall be blocked or encumbered or closed due to any exploration, drilling or production operations unless prior consent is obtained from the Planning Department . Any consent from the Planning Department shall be temporary in nature and state the number of hours and/or days that any street or alley may be blocked, encumbered or closed.

SEC. 7-70. GATE SPECIFICATIONS

All chain link fences and masonry walls shall be equipped with at least one (1) gate. The gate shall meet the following specifications:

- 1) The gates shall be of chain link construction that meets the applicable specifications, or of other approved material that, for safety reasons, shall be at least as secure as a chain link fence;
- 2) The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site; and
- 3) Operator must provide the City Fire Chief with a “Knox Padlock” or “Knox Box with a key” to access the well site to be used only in case of an emergency.

SEC. 7-71. CLEANUP AND MAINTENANCE.

- A. **Cleanup after well servicing.** After the well has been completed or plugged and abandoned, the Operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within sixty (60) days.
- B. **Clean-up after spills, leaks and malfunctions.** After any spill, leak or malfunction, the Operator shall remove or cause to be removed to the satisfaction of the City Fire Chief and the Inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. If the owner fails to begin site clean-up within twenty-four (24) hours, the City shall have the right to contact the Commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.
- C. **Free from debris.** The property on which a well site is located shall at all times be kept free of debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other waste material within a radius of one hundred (100) feet around any separators, tanks and producing wells.
- D. **Painting.** All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the Inspector shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of green, blue and brown, or other neutral colors approved by the Inspector.
- E. **Blowouts.** In the event of the loss of control of any well, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this Ordinance and shall notify the Inspector as soon as practicable. The Inspector shall certify in writing, briefly describing the same, to the Planning Department and the City

Manager. If the Inspector, in his opinion, believes that danger to persons and property exists because of such loss of well control and that the Operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the Inspector may then employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the Inspector deems necessary to regain control of such well. The City shall then have a valid lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the City pursuant to such action of the Inspector in gaining control of said well.

SEC 7-72. PLUGGED AND ABANDONED WELLS.

- A. Surface requirements for plugged and abandoned well.** Whenever abandonment occurs pursuant to the requirements of the Commission, the Operator so abandoning shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this Ordinance.
- B.** Abandonment shall be approved by the Inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the Inspector:
- 1) The derrick and all appurtenant equipment thereto shall be removed from drill site;
 - 2) All tanks, towers, and other surface installations shall be removed from the drill site;
 - 3) All concrete foundations, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the Commission;
 - 4) All holes and depressions shall be filled with clean, compactable soil;
 - 5) All waste, refuse or waste material shall be removed from the drill site; and
 - 6) During abandonment, Operator shall comply with all applicable sections in this Ordinance.
- C. Abandoned well requirement.** The Operator shall furnish the following at the discretion of the Inspector:
- 1) A copy of the approval of the Commission confirming compliance with all abandonment proceedings under the state law; and
 - 2) A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.
- D. Abandonment requirements prior to new construction.** All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the Commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

DIVISION VII. TECHNICAL ADVISOR.**SEC. 7-73. TECHNICAL ADVISOR.**

The City may from time to time employ a technical advisor or advisors who are experienced and educated in the gas & oil industry or the law as it pertains to gas & oil matters. The function of such advisor(s) shall be to advise, counsel or represent the City on such matters relating to gas & oil operations within the City as the City may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the City. In the event such Technical Advisor(s) is employed for the purpose of advising, counseling or representing the City relative to an Operator's unique and particular set of circumstances, case or request relating to this Ordinance, then the cost for such services of such technical advisor(s) shall be assessed against and paid for by such Operator in addition to any fees or charges assessed pursuant to this Ordinance. Prior to the employment of a Technical Advisor, the City shall inform the Operator of the intended scope of work and the estimated costs and expenses. The employment of a Technical Advisor shall be approved by the City Council.

DIVISION VIII. APPEALS**SEC. 7-74. APPEALS.**

- A.** The City Council shall have and exercise the power to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the issuance of a Gas & Oil Well Permit or the revocation or suspension of any Gas & Oil Well Permit issued hereunder as provided by this Ordinance. Any person or entity whose application is denied by the Planning Department (other than for distance requirements set out in this Ordinance) or whose Gas & Oil Well Permit is suspended or revoked or whose well or equipment is deemed by the Inspector to be abandoned may, within thirty (30) days of the date of the written decision of the Planning Department file an appeal to the City Council in accordance with the following procedure:
- 1) An appeal shall be in writing and shall be filed in triplicate with the City Secretary. The grounds for appeal must be set forth specifically, and the error described, by the appellant.
 - 2) Within forty-five (45) days of receipt of the records, the City Secretary shall transmit all papers involved in the proceeding, place the matter on the City Council agenda for hearing and give notice by mail of the time, place and purpose thereof to appellant and any other party who has requested in writing to be so notified. No other notice need be given.
- B.** Appeal fees shall be required for every appeal in the amount of three hundred (\$300) dollars.

DIVISION IX. PENALTY**SEC. 7-75. PENALTY.**

- A.** It shall be unlawful and an offense for any person to do the following:
- 1) Engage in any activity not permitted by the terms of a Gas & Oil Well Permit issued under this Ordinance.
 - 2) Fail to comply with any condition set forth in a Gas & oil Well Permit issued under this Ordinance; or.
 - 3) Violate any provision or requirement set forth under this Ordinance.
- B.** Any violation of this Ordinance shall be punished by a fine of not more than \$2,000.00 per day, subject to applicable State law. Each day that a violation exists shall constitute a separate offense.

SECTION 2.

That this ordinance shall be cumulative of all other ordinances of the City of Decatur and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 3.

That all rights or remedies of the City of Decatur, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases,

clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 6.

That the City Secretary of the City of Decatur, Texas is hereby directed to publish this ordinance for two (2) days in the official newspaper of the City of Decatur, Texas, as authorized by V.T.C.A. Local Government Code Subsection 52.013.

SECTION 7.

This ordinance shall take effect on its final passage, and it is so ordained.

PRESENTED ON FIRST READING THIS _____ DAY OF _____, 2004

PRESENTED ON SECOND READING AND APPROVED THIS _____ DAY OF _____,

2004 BY A VOTE OF _____ AYES, _____ NAYS, _____ ABSTENTIONS, AT A REGULAR

MEETING OF THE CITY COUNCIL OF THE CITY OF DECATUR, TEXAS.

APPROVED:

Joe Lambert, MAYOR

ATTEST:

Jean Dwinnell, TRMC/CMC, CITY SECRETARY

APPROVED AS TO FORM:

Mason Woodruff, CITY ATTORNEY